

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUBEN DAVILA-MENDOZA, a/k/a
Ruben Deanda-Moreno,

Defendant.

No. 12-CR-4005-DEO

**ORDER ACCEPTING REPORT
AND RECOMMENDATION
CONCERNING GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

Before the Court is Chief Magistrate Judge Paul A. Zoss's Report and Recommendation Concerning Guilty Plea (Docket No. 19, 02/10/2012).

On January 19, 2012, a one count Indictment (Docket No. 2) was returned in the above-referenced case. On February 10, 2012, Defendant Ruben Davila-Mendoza, a/k/a Ruben Deanda-Moreno, entered a guilty to plea to Count 1 before Chief United States Magistrate Judge Paul A. Zoss.

Count 1 of the Indictment charges that on or about December 22, 2011, in the Northern District of Iowa, defendant Ruben Davila-Mendoza, an alien citizen of Mexico, was found knowingly and unlawfully in the United States after having been previously removed from the United States to Mexico on or

about August 1, 1999. Defendant did not obtain the express consent of the Attorney General of the United States or his successor, the Secretary of Homeland Security (Title 6, United States Code, Section 202(3) and (4) and Section 557), to reapply for admission into the United States prior to re-entering the United States after August 1, 1999, on an unknown date at an unknown location.

This was in violation of Title 8, United States Code, Section 1326(a).

The Report and Recommendation (Docket No. 19), states that there is no plea agreement and recommends that defendant Ruben Davila-Mendoza's guilty plea be accepted. Waivers of objections to Judge Zoss's Report and Recommendation were filed by each party (Docket Nos. 20 and 21). The Court, therefore, undertakes the necessary review to accept defendant Ruben Davila-Mendoza's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

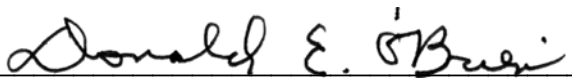
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 19), and accepts defendant Ruben Davila-Mendoza's plea of guilty in this case to Count 1 Indictment (Docket No. 2).

IT IS SO ORDERED this 15th day of February, 2012.


Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa